

**781—3.6(12C) Securing public funds in a savings and loan with a pledge of eligible collateral.**

**3.6(1)** Prior to accepting an uninsured public deposit, a savings and loan shall secure the uninsured public deposit in accordance with Iowa Code chapter 12C and these rules. The savings and loan must:

- a.* Enter into a Security and Custodial Agreement for the Deposit of Public Funds in Savings and Loans (Form 655-0205) with the public unit and the approved custodian.
- b.* Enter into a deposit agreement (Form 655-0204) with the public unit.
- c.* Deliver to the approved custodian eligible collateral with a market value of not less than 110 percent of the uninsured public deposits.

**3.6(2)** A savings and loan shall grant a security interest to the public unit in all pledged securities to secure the uninsured public funds of that public unit. The savings and loan shall take all steps necessary to ensure that the public unit has a valid, perfected, enforceable, first priority security interest in the pledged collateral. The savings and loan shall enter into a security agreement (Form 655-0205) with the public unit and the approved custodian, and shall transfer pledged collateral to the approved custodian which shall hold the pledged collateral in safekeeping for the public unit.

**3.6(3)** The savings and loan shall maintain eligible collateral with the approved custodian with a total market value of not less than 110 percent of a public unit's total deposits which are not otherwise secured by a letter of credit.

**3.6(4)** A savings and loan shall promptly forward to the approved custodian payment for fees associated with the approved custodian's services as safekeeping agent for the public unit upon receipt of a statement from the approved custodian.

**3.6(5)** A savings and loan shall not attempt to withdraw pledged collateral from the approved custodian if such action will cause the total market value of pledged collateral to fall below 110 percent of a public unit's total uninsured deposits which are not otherwise secured by a letter of credit.

**3.6(6)** A savings and loan shall promptly notify the public unit and the approved custodian, in writing, of any change in its name or home office location.

**3.6(7)** A savings and loan shall receive written approval from the public unit for the withdrawal or substitution of any pledged collateral by completing the Certification and Approval Form for the Withdrawal, Substitution or Addition of Pledged Securities (Form 655-0206) and delivering it to the public unit with the request for the public unit's written approval to withdraw or substitute pledged securities. The public unit, if it approves of the withdrawal or substitution of pledged securities, shall forward the completed form to the approved custodian.

**3.6(8)** Any request by a savings and loan to withdraw pledged securities or to substitute securities which will result in a total market value of less than 110 percent of the public unit's public deposits, which are not otherwise secured by a letter of credit, shall be denied by the public unit.

**3.6(9)** The approved custodian shall comply with a savings and loan's request for the withdrawal, substitution or addition of pledged collateral when it receives a completed Certification and Approval Form for the Withdrawal, Substitution or Addition of Pledged Securities (Form 655-0206) containing the authorized signatures of the public unit and the savings and loan.

**3.6(10)** The approved custodian will issue a Joint Receipt of Custody (Form 655-0207) to the public unit and to the savings and loan evidencing the pledge of any securities under the security agreement between the public unit and the savings and loan. In the event of substitution or exchange of securities, the approved custodian shall forward by mail to the public unit a Joint Receipt of Custody (Form 655-0207).

**3.6(11)** If a pledged security matures, then the principal amount of the cash must be held in trust by the approved custodian for the public unit until the public unit has determined that releasing the cash will not cause the total market value of all pledged securities by the savings and loan to fall below the 110 percent requirement.

**3.6(12)** The securities used to secure the uninsured public deposits in savings and loans shall be acceptable to the public unit and the approved custodian and shall be one or more of those securities specified in rule 3.2(12C) of this chapter under the definition of "eligible collateral."

**3.6(13)** The public unit or the approved custodian has the right to refuse any security offered as collateral, notwithstanding its inclusion in Iowa Code section 12C.16(1)"b" or these rules, for reasons relating to difficulty of valuation, uncertainty as to the ability to sell a security in the event of default,

questions as to ownership, or impossibility of creating a valid and perfected security interest in favor of the public unit.

**3.6(14)** The acceptance of a security as collateral by the approved custodian or the public unit does not prevent the public unit from requiring substitution of said security at a later time as a result of statutory or regulatory amendment or other changes which affect the valuation, marketability, liquidity, ownership, or perfectibility of the security or the enforceability of the public unit's security interest.

**3.6(15)** Securities which are issued in certificated or definitive form are eligible collateral only if they are registered in the name of the public unit's approved custodian, or are in otherwise negotiable form acceptable to the public unit.

**3.6(16)** No security which requires any additional endorsement, assignment or power of attorney for liquidation is eligible collateral.